

OPINION
47-56

December 22, 1947 (OPINION)

COUNTIES

RE: Poor Relief - Funds Usable

Re: Section 25-0803

Your letter of December 18th re funds for relief for poor is at hand and came to me for reply.

You state that your county's poor relief fund is exhausted. Section 50-0304 authorizes transfer to such fund from other funds with certain specific exceptions.

You state that your county has accumulated a fund for institutional care which was revised under the provisions of Chapter 25-08 of the North Dakota Revised Code of 1943, Section 25-0802 provides for levy of the county tax for this fund and Section 25-0803 provides that this fund cannot be diverted from its purpose. This provision was enacted as Section 11, Chapter 137, Laws of 1907.

Clearly this provision was made to insure payment of all claims against the county for institutional care.

But, when the initiated measure for intoxicating liquor control was adopted in 1936, a new source of funds for payment for institutional care was created and this fund seems to be taking care of charges which the funds referred to in Sections 25-0802 and 25-0803 were intended to care for. It would seem that now many counties have funds on hand raised under the provisions of Section 25-0802 which funds are wholly inactive since there are now no charges made against them. We can see no particular reason for maintaining these inactive funds now.

Therefore, we are of the opinion that the prohibitions of transfer from this fund made by Section 25-0803 was impliedly repealed by Section 5-0311 and that the county may now transfer this inactive fund to the poor relief fund under the provisions of Section 50-0304.

NELS G. JOHNSON

Attorney General